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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)

Application by Verizon New Jersey, Inc.)

Bell Atlantic Communications, Inc. (d/b/a)

Verizon Long Distance), NYNEX Long Distance)

Company (d/b/a Verizon Enterprise Solutions),)

Verizon Global Networks, Inc., and)

Verizon Select Services, Inc., for Authorization)

To Provide In-Region, InterLATA Services)

In New Jersey)

CC Docket No. 01-347

COMMENTS OF DIRECTV BROADBAND, INC.

DIRECTV Broadband, Inc. ("DIRECTV Broadband") submits these comments concerning the above-captioned Application of Verizon New Jersey, Inc., *et al* ("Verizon") for authorization to provide In-Region, InterLATA Services in New Jersey. DIRECTV Broadband is a broadband services provider ("BSP") that offers retail high-speed DSL-based broadband services such as Internet access, e-mail, web-hosting, multiple computer networking services, virus and security services, and, in the future, other interactive and consumer-focused broadband services and applications (collectively, "Broadband Services"). DIRECTV Broadband provides these services to almost 100,000 residential customers nationwide in 146 Metropolitan Areas (MSAs) and is one of the largest non-ILEC affiliated broadband providers in the country. DIRECTV Broadband provides service by means of its own nationwide broadband network combined with last-mile wholesale xDSL connectivity and transport (together, "DSL Connectivity") purchased from ILECs, and, where possible, from CLECs. DIRECTV Broadband purchases DSL Connectivity from MCI WorldCom, Verizon (including the former GTE) and other ILECs including BellSouth, SBC and its affiliates (Ameritech, Pacific Bell, Southern New England Telephone, and SWBT), and Qwest. For the reasons stated below, the

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Commission should not grant the Application unless (1) Verizon commits to provide DSL Connectivity, including interLATA ATM transport services, to BSPs on reasonable terms and conditions, and (2) discloses on the record its plans for any changes to current DSL Connectivity offerings and demonstrates that these will not adversely affect the provisioning of service by BSPs to consumers.

I. BOCs Impose Inefficient DSL Connectivity Service Arrangements that Harm Consumers

As noted, DIRECTV Broadband serves residential subscribers across the nation by purchasing wholesale digital subscriber line (“DSL”) service from ILECs, and where available, from CLECs. Typically, DSL connectivity will extend from the customer home to the ILEC wire center serving the residence (the “Last Mile”). From there, “Egress Circuits” comprised of the ILEC’s ATM network carry the customer’s data traffic to a connection point into the DIRECTV Broadband nationwide network, which DIRECTV Broadband establishes in each LATA. DIRECTV Broadband then carries data to the Internet or private networks as each Broadband Service requires.

While these arrangements enable DIRECTV Broadband to provide quality, innovative Broadband Services to consumers, these arrangements as currently provisioned impose a number of very significant costs and inefficiencies on BSPs. The Egress Circuits are expensive DS3 and OC3 links, typically costing between \$5,000 and \$15,000 per month per circuit. The requirement that at least one circuit connect the BSP to each LATA¹ imposes significant costs in excess of what would be involved if BSPs were able to obtain efficiently sized Egress Circuits,

¹ The Commission should note that Verizon has refused to allow BSPs to share egress circuits, denying them the opportunity to more efficiently utilize these circuits. It should also be noted that ILEC-affiliated BSPs, since they essentially pay half the cost of the Egress Circuit to themselves, are not negatively impacted by the multiple Egress Circuit requirement to the same extent as independent BSPs.

including single Egress Circuits that serve customers in contiguous LATAs in states or regions where an ILEC has obtained Section 271 authority.

In addition, BOCs are unnecessarily limiting the number of customers that can be served on the egress circuits that extend from each central office to DIRECTV Broadband's interconnection point in each LATA. In some cases, this limit is far below the technical limits of the Egress Circuit. For example, Verizon West permits only 2,000 customers to be served on a DS3 Egress Circuit even though it could readily be used to serve at least 4,000 customers. This artificial limit on the number of subscribers that can be served on an Egress Circuit substantially increases the absolute and per subscriber cost for these circuits.

The combined result of these provisioning arrangements is to unduly complicate the economics of providing Broadband Services to consumers. Particularly in less densely populated areas, the inefficiencies can make it uneconomical to provide service.

It would be far more efficient and make service more widely available to consumers, especially in areas outside metropolitan centers if, instead of being required by each BOC to extend facilities into each LATA, DIRECTV Broadband could obtain regionwide or at least multi-state, ATM transport services² without artificial constraints on the number of subscribers the Egress Circuit supports. ATM networks were developed precisely because they allow aggregation of data traffic, and combine the efficiencies of packet-switching with the ability to use Last Mile circuit switched network facilities. In fact, these efficiencies are such that DIRECTV Broadband estimates that the additional cost to a BOC of extending ATM networks

² There has been some indication that Pacific Bell will propose to offer egress transport statewide to BSPs in California at a cost of \$7.00 per subscriber per month. No details are available. However, the Commission should note that while this proposal would eliminate the need for a BSP to pull single Egress Circuits into each LATA where it offers Broadband Services, the proposed price is over five times the cost of purchasing single Egress Circuits under full utilization. And, this is despite the enormous cost savings within its ATM network from which Pacific Bell will benefit if it obtains long distance authority. Pacific Bell appears ready to offer a new egress model that will perpetuate, rather than solve the problem. The Commission should take a hard look at the pricing proposed for any such solution.

across LATA boundaries should not result in significant additional charges to providers such as DIRECTV Broadband, beyond the charges for last mile connectivity that BOCs currently provide plus the charge for the circuit into each region where the BOC gains long distance authority. Any increase in cost from carrying traffic within a region to a connection point for the DIRECTV Broadband network would be far less than charges for the DS3 transport services that DIRECTV Broadband currently incurs because of the unavailability of regionwide ATM transport services and is more than offset by the savings the ILEC will enjoy as it is relieved of the requirement that the ILEC purchase expensive circuits from interexchange carriers, formerly necessary to carry ILEC ATM traffic across LATA boundaries.

II. Grant of the Application Would Not Serve the Public Interest Absent Commitments to Provide Region-Wide ATM Transport On An Efficient Basis

In order to grant the Application, the Commission must determine that the proposed interLATA entry “is consistent with the public interest, convenience and necessity.”³ A key purpose of Section 271 is to bring to consumers the increased service choices and lower prices that competition should offer. Indeed, Verizon in its application describes in expansive terms the benefits to the public that it expects from a grant of its application.⁴

However, DIRECTV Broadband has been disappointed that without exception the BOCs, after obtaining interLATA approval, have not met the challenge and opportunity envisioned in Section 271 in that they have failed to extend their existing ATM transport services in ways that could permit DIRECTV Broadband other BSPs to take full advantage of the efficiencies of this technology that should become available after ILEC entry into long distance. For example, SBC has not extended its ATM networks and transport offerings and has failed to provide to DIRECTV Broadband this service on an interLATA basis in Texas. If, in Texas, where SBC

³ 47 USC Section 271(d)(3)(C).

received long distance authority over a year ago, the requirement for multiple egress circuits from each community to DIRECTV Broadband's interconnection point in each LATA had been eliminated, and replaced with regionwide interLATA ATM transport, then DIRECTV Broadband and other BSPs could have served far more communities and consumers by purchasing a single properly sized egress circuit from SBC serving the entire state.

However, since receiving long distance authority in New York, Verizon has not dropped its requirement that each BSP purchase multiple inefficiently sized circuits across the state. Likewise, SBC has failed to provide interLATA transport in Texas, where it received long distance authority over a year ago.⁵ Nor have several of the ILECs taken any steps to establish more realistic limits on the numbers of customers that may be served on egress circuits purchased by BSPs.

Establishing efficient regionwide InterLATA ATM networks would serve the public interest, because DIRECTV Broadband and other BSPs, in turn, could provide service to consumers most efficiently, at the most affordable prices, in more diverse communities. Accordingly, DIRECTV Broadband respectfully requests that the Commission determine that, apart from other possible deficiencies in the application, that it would not be in the public interest to grant the above-captioned application absent, first, the deployment of a rational model for statewide egress in New York where Verizon has had long distance authority for over a year, and second a commitment from Verizon that it will offer efficient interLATA ATM transport

⁴ Application. at pp. 76 – 110.

⁵ The Commission should note that the beneficiary of the inefficiency is SBC, which receives (a) revenue from BSPs for inefficiently sized circuits; (b) cost relief within its network because it no longer must purchase data transport across LATA boundaries from IXCs; and (c) a barrier to competition from all but equally sized BSPs that can match SBC's total subscriber count and thus its economies of scale for utilizing the egress circuit that serves a particular LATA. If SBC does in fact propose statewide egress as part of its long distance application for California, the Commission should obtain a commitment that it will deploy a rational statewide egress alternative in states such as Texas where it already is capable of carrying traffic across LATA boundaries.

services to BSPs on reasonable terms and conditions within a short time in New Jersey after obtaining the grant.

III. Verizon Has Not Provided Adequate Assurance of Non-Discriminatory Provisioning to BSPs

Non-discriminatory access by BSPs to essential network services is a bedrock precondition to any grant of interLATA approval. In the present application, however, Verizon provides no meaningful information concerning its current or future plans for providing DSL Connectivity and other telecommunications services to BSPs on a reasonable and nondiscriminatory basis.

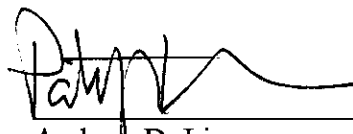
DIRECTV Broadband believes that Verizon and other BOCs are considering fundamental changes to DSL architecture that would severely limit the existing capability of DSL circuits to support advanced services that could compete with BOC services, such as voice over IP. DIRECTV Broadband requests that the Commission obtain more information and commitments from Verizon regarding any proposal it may have to degrade the capability of wholesale DSL connectivity to support advanced Broadband Services. Specifically, as part of its public interest inquiry in this proceeding, the Commission should require Verizon to identify on the record any changes under consideration to the communications protocol fundamental to DSL Connectivity, to eliminate the “always-on” nature of DSL, or to deploy services that might interfere with Broadband Services provided by BSPs over those connections. Verizon should demonstrate to the Commission that these changes will not adversely affect or inhibit the continued deployment of broadband telecommunications services by BSPs to consumers.

IV. Conclusion

For these reasons, the Commission should not grant the Application absent commitments from Verizon to provide efficient DSL Connectivity including interLATA ATM services to BSPs on reasonable terms and conditions. The Commission should also obtain on the record complete information from Verizon concerning any planned changes to DSL Connectivity delivered to BSPs.

Respectfully Submitted,

DIRECTV BROADBAND, INC.

A handwritten signature in black ink, appearing to read 'D. Lipman', is written over a horizontal line.

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Date: February 1, 2002

CERTIFICATE OF SERVICE

I, Katherine A. Swall, hereby certify that on this 1st day of February 2002, copies of the foregoing Comments of DIRECTV Broadband, Inc. were delivered by hand* or first-class mail to the following parties:

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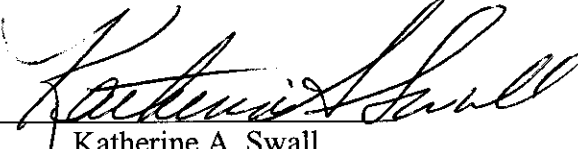
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